

**Chesapeake Bay Local Assistance Board
Southern Area Review Committee Meeting
Tuesday, May 03, 2005
101 N. 14th Street – James Monroe Building
Richmond, Virginia**

Members Present

Sue H. Fitz-Hugh
Beverly Harper
Michael A. Rodriguez

David C. Froggatt
Gale A. Roberts

Members Absent

None

DCR Staff

Joseph H. Maroon, Director
C. Scott Crafton, Acting Director, Division of Chesapeake Bay Local Assistance
David C. Dowling, Policy, Planning and Budget Manager
Roger Chaffe, Office of the Attorney General
Martha Little, Chief of Environmental Planning
Shawn Smith, Principal Environmental Planner
Jakob Helmboldt, Senior Environmental Planner
Brad Belo, Senior Environmental Planner
Ryan Link, Principal Environmental Planner
Michael R. Fletcher, Director of Development
Christine Watlington, Policy and Planning Analyst

Local Government Officials Present

City of Chesapeake

Amy Ring

City of Hampton

Keith Cannady
James Freas

City of Norfolk

Lee Rosenberg

Brian Ballard

City of Portsmouth

Stacy Porter

Town of Smithfield

Bill Hopkins

City of Hopewell

March Altman, Director of Development

Call to Order and Opening Remarks

Mr. Crafton called the meeting to order and asked for the roll call. A quorum was declared present.

Local Program Reviews: Phase I

City of Norfolk

Mr. Link presented the following report for the City of Norfolk. He introduced Lee Rosenberg and Brian Ballard from the City of Norfolk. He noted that the City would have a presentation following his remarks.

On December 13, 2004 the Board found the City of Norfolk inconsistent with the Act and Regulations due to the City's failure to adopt a revised ordinance and established a final deadline of March 15, 2005 for the City to adopt the required program amendments.

Following the finding of inconsistent, Department staff met with the City on December 13, 2004 and on March 2, 2005 to provide follow-up assistance during the revision process. The City of Norfolk adopted its amended Chesapeake Bay Preservation Area Overlay District Ordinance and revised Intensely Developed Area on February 15, 2005.

The City's revised Chesapeake Bay Preservation Overlay District Ordinance addresses many of the required changes, including revisions to definitions and the exceptions process. While the City has made progress in addressing the required revisions, numerous required changes must still be completed in order for the City's Phase I program to be found consistent with the Regulations. These changes are as follows:

Recommendations:

1. All language referring to buffer equivalency must be deleted from the City's Chesapeake Bay Preservation Area Overlay District.
2. The section of the City's ordinance addressing exempted road activities must be amended to require proposed roads meet all of the required provisions per the Regulations.
3. The City must establish a clear process for the review and approval of the addition and expansion of legal principal structures. The six required findings must be included in this approval.
4. The City must include the six required findings for a formal exception as identified in the Regulations into the variance language of the City's ordinance.

Since the drafting of the staff report the City has provided further clarification regarding recommendation #1 to the satisfaction of the Department and has agreed to address the remainder of the above recommendations prior to the June Board Meeting.

In addition to these four requirements, upon initial review of the City's revised IDA, staff identified numerous areas as "questionable" for inclusion in the City's IDA. Based on a review of 1994 aerial photography, several of the areas designated by the City as IDA appeared to have intact RPAs including wetlands, and buffer vegetation. Other areas appeared to be comprised of open space and do not meet the Department's historical interpretation of "little of the natural environment".

Staff met with the City of Norfolk on April 7, 2005 to discuss these areas of concern and the City agreed to remove eight of the areas of question from the IDA designation.

Following the removal of these eight areas, staff is still concerned with the designation of the western half of Little Creek as an IDA. Based on aerial photography, this area appears to consist of intact RPAs including wetlands, and buffer vegetation. Based on the historical interpretation of IDAs staff does not feel that the inclusion of this area within the City's IDA meets the intent of the Regulations and the precedent that has been set in reviewing IDA designations. The City has provided an in-depth analysis of this area in correspondence dated April 15, 2005 detailing its qualification for IDA designation- they will address this issue following my summary.

Based on the above information, review of aerial photography and historical data, Department staff identified the following three additional items as requirements for full consistency under the existing Regulations.

Recommendations:

4. The City must revise its IDA designation in order to be consistent with the Regulations.

5. The City must identify a plan for addressing CBPA and stormwater management criteria for development within the proposed IDAs including mitigation requirements.
6. The City must provide calculations that identify how they will meet the required 10% reduction required for all development and redevelopment in the IDA as required by the Regulations.

Based on the nature and extent of the identified recommendations, staff recommended that the City of Norfolk's Chesapeake Bay Preservation Area Overlay District Ordinance be found inconsistent at this time with the Act and Regulations, with the understanding that completion of the above recommendations in the upcoming weeks may result in a change of recommended status prior to the June Board meeting.

Mr. Crafton recognized Mr. Rosenberg for comments. Mr. Rosenberg thanked the committee and introduced Brian Ballard for a Power Point presentation. A copy of the full presentation, including graphics, is available from DCR.

City of Norfolk Chesapeake Bay Program Amendments
Southern Area Review Committee
May 3, 2005
Edwin L. Rosenberg
Brian P. Ballard
Norfolk Bureau of Environmental Services

DCR-CBLA Staff Report – Ordinance Recommendations

Recommendation	Modified as Requested
1	√
2	√
3	√
4	√

Planning Commission Public Hearing: April 28, 2005
City Council Public Hearing: May 17, 2005

Previous IDA designation

- ✓20% of CBPA
- ✓Includes 2 cemeteries
- ✓Includes 7 residential neighborhoods

Norfolk General Plan

- ✓Primary City Policy Document
- ✓Amendments for Phase II Requirements

- ✓ Adopted by City Council 3/11/03
- ✓ CBLAB found consistent 9/15/03

Norfolk General Plan

“As of December 31, 1999, existing land use data developed for the City’s Virginia Pollution Discharge Elimination System (VPDES) permit indicated that almost 99 percent of the City was developed. The City of Norfolk possesses the highest amount of impervious surface of any locality in Hampton Roads”

Norfolk General Plan

“The predominant development pattern in Norfolk is characterized by redevelopment and infill development, with little natural vegetation remaining. In such a setting, full protection of the 100-foot buffer is not practical or feasible in all cases. The Chesapeake Bay Preservation Act recognizes this by allowing greater flexibility in meeting the Resource Protection Area buffer requirements in designated IDAs. To better reflect the City of Norfolk’s development patterns and help achieve the intent of the Bay Act to concentrate development in already developed areas, the City should consider expanding its IDA designation to residential areas”

Norfolk General Plan

“Under the regulations of the Chesapeake Bay Preservation Act the entire shoreline of the City of Norfolk may qualify for Intensely Developed Area (IDA) designation. Expansion of the City’s IDA designation should be considered in recognition of the fact that the City of Norfolk, in its entirety, is an area targeted for redevelopment and infill development”

IDA Criteria

The Chesapeake Bay Act and the City’s Ordinance define IDAs as “areas of *existing development and infill sites* where little of the natural environment remains and *one of* the following three conditions as of local adoption date” (3/3/92):

- Impervious surfaces \geq 50% impervious surface
- Public water and sewer serves area or a constructed stormwater drainage system, or both
- *Housing Density* \geq 4 units per acre

Requires local governments to examine the pattern of *residential*, commercial, industrial, and institutional within Chesapeake Bay Preservation Areas

Watershed Management Unit	Typical Area (square miles)	Influence of Impervious Cover	Sample Management Measures
Catchment	0.05 to 0.5	very strong	stormwater management and site design
Subwatershed	0.5 to 30	strong	stream classification and management
Watershed	30 to 100	moderate	watershed-based zoning
Sub-basin	100 to 1,000	weak	basin planning
Basin	1,000 to 10,000	very weak	basin planning

Impervious Bench Mark

Mean Impervious Cover percentage for ¼ Acre Lots within the Chesapeake Bay Watershed = **27.8%**

Source: Impervious Cover and Land Use in the Chesapeake Bay Watershed, January 2001, Center for Watershed Protection

Impervious Analysis

- ✓ Planimetric GIS data (i.e. actual impervious footprint) ✓ Over 20 years of building permit data
- ✓ Excluded all development after 12/1991
- ✓ Only considered land area within the RPA 100' Buffer
- ✓ Excluded all existing IDA sites

Impervious Results

Subwatershed	Imperviousness
Broad Creek	34%
E. River – East	28%
E. River – West	28%
Lafayette River	28%
Little Creek	28%
Mason Creek	28%
Willoughby Bay	37%

Urban Stream Classifications

	Stressed (0 to 10% Impervious)	Impacted (11 to 25% Impervious)	Degraded (26 to 100% Impervious)
Channel Stability	Stable.	Unstable.	Highly unstable.
Water Quality	Good.	Fair.	Fair-Poor.
Stream Biodiversity	Good – Excellent.	Fair-Good.	Poor.
Land Use Controls	Impervious surface area limits.	Impervious surface area limits.	Additional infill and redevelopment encouraged.
Development Rights	Transferred out.	No change.	Transferred in.
Riparian Buffers	Widest buffer network.	Average buffer width.	Greenways.

Source: Center for Watershed Protection

Come Home to Norfolk Now

- ✓ Targeting Programs to encourage and maximize investment in its neighborhoods
- ✓ Promote diversity of Norfolk's Housing
- ✓ Broadening the housing market through new housing and rehabilitation
- ✓ Top priority of City Council
- ✓ Specific Programs:
 - Norfolk Residential Pattern Book
 - Tax Abatement for Rehabilitation and other financial incentives for improving and owning a home
 - Neighborhood Design and Resource Center

CBPA Statistics

- Number of SFR Parcels:
 - ✓ City = 45,531
 - ✓ CBPA = 5,438 or 12% of City SFR
- Vacant SFR Parcels in CBPA: 2945% of CBPA SFR or 0.6% of City SFR

CBPA Statistics

- New SFR Homes Built since 1992:
 - ✓ City = 2,156 or 5% of Total SFR
 - ✓ CBPA = 305 or 0.07% of Total SFR and 5% of CBPA SFR
- Majority of new homes built represent rebuilds/redevelopment
- Average SFR Accessed Value –
 - ✓ City - \$121K
 - ✓ CBPA - \$191K
- Change in SFR Accessed Value 2000-2004
 - ✓ City = 39%
 - ✓ CBPA = 46%

CBPA Statistics

Total SFR Structures in the CBPA =
Principle – 5,431
Accessory – 2,998
Total SFR Structures in RPA 100' Buffer =
Principle – 3,839 or 71% of Total CBPA
Accessory – 2,141 or 71% of Total CBPA

IDA Impact

- Max Annual Demand for Accessory Structures in CBPA = 32 (based on 17 years of permit data)
- Average of Accessory Structures City Wide = 370 ft² (n = 22,998)
- Footprint Size = 0.274 Acres
- City Land Area = 34,168 Acres

- New Structures = 0.0008% of City Land Area or 8 ppm
- Buffer Land Area = 2,500 Acres
- New Structures = 0.01% of Buffer Land Area or 1 pptt

PPM Analogies

8 Parts per million =

- 8 minutes in two years
- ounces in 32 tons
- 8 cents in \$10,0008
- ¼ inch in a football field
- 32 drops of water in a 55 gallon barrel

Urban Source Micro-Area Monitoring Results

Source	Total P (mg/L)	Total N (mg/L)	BOD5
Residential Roofs	0.06	1.46	9
Residential Lawns	2.33	9.70	22.6
Driveways	0.35	2.10	13

“Rooftop runoff had the lowest nutrient concentration of any source area, which is not surprising given that atmospheric deposition is probably the only pollutant pathway”

Sources = “Stormwater Pollution Source Areas Isolated in Marquette, Michigan”, The Practice of Watershed Protection: Article 15, CWP 2000

Chesapeake Bay Preservation Act

§10.1-2107 Board to develop criteria:

“In developing and amending criteria, the Board shall consider all factors relevant to the protection of water quality from *significant degradation* as a result of the use and development of land”

CBPA Designation/Management Regulations

9 VAC 10-20-30. Purpose of Chapter:

“To protect and improve the water quality of the Chesapeake Bay...protection of certain lands...if improperly used or developed may result in *substantial damage* to the water quality of the Chesapeake Bay”

IDA implementation

- Chapter 11.2: Chesapeake Bay Preservation Area Overlay District
 - ✓Performance standards
- Chapter 45: Trees and Other Vegetation
 - ✓RPA vegetation protection extended to IDA
- City Code: Accessory Structure Encroachment Permit (proposed)
 - ✓Fee goes into RPA restoration/enhancement account
 - ✓ ≥150 ft² = \$100, <150 ft² = \$1 per ft², max = \$350

•Chapter 15: Erosion and Sediment Control

✓2,500 ft² threshold extends City wide

IDA - 10% reduction

- Under Section 42.5-7 of the Norfolk City Code single-family projects under 4 lots (any size) are exempt from the CBPA stormwater requirements
- Single Family Projects with road improvements are required to meet stormwater requirements
- This exemption was found consistent by CBLAB in 1999 and included new development, redevelopment, and IDA sites
- CBLAB recognized the problems of effectiveness and long term monitoring associated with single lot BMPs
- CBLAB also recognized the fact that very few infill lots remained within the CBPA
- All other projects across the City are required to calculate the existing nonpoint pollutant load and reduce it by 10% (redevelopment) or no net increase (infill) during the City's site plan review process

**New RPA Locations
(April 7th Meeting)**

- 1.St. Mary's Cemetery**
- 2.Calvary Cemetery**
- 3.Lakewood Park**
- 4.Tarrallton Park**
- 5.Tarrallton Elementary School**
- 6.Forest Lawn Cemetery**
- 7.Northside Park**
- 8.Merrimack Landing Apartments**

Findings

- Structures currently in the 120 acre 100' buffer = 334 principle and 173 accessory
- Out of 498 SFR Parcels in the buffer:
- 390 or 80% contain a structure in the buffer
- 41% already have an accessory structure and 80% of those structures are currently in the buffer
- Anticipated annual accessory structure demand = 3 accessory structures with a total coverage of 1,110 ft²•Coverage = 0.0002% of buffer area or 0.00001% of drainage area (1 part per 10 million)

DCR-CBLA Staff Report –IDA Recommendations

Recommendation	Norfolk program -Consistent with the Regulations
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5	√
6	√
7	√

Summary

- ✓ Amendments are consistent with the Chesapeake Bay regulations
- ✓ Consistent with City policy adopted by Council and approved by CBLAB
- ✓ Recognize the unique characteristics of an urban location – one size doesn't fit all
- ✓ IDA implementation goes beyond requirements of the regulations

Mr. Rosenberg distributed to members a copy of *A Pattern Book for Norfolk Neighborhoods*. A copy of this document is available for review at the DCR offices.

Mr. Rosenberg said that the City hopes that after final adoption by the City Council that the program would be found fully consistent.

Ms. Fitz-Hugh asked if Mr. Ballard or Mr. Rosenberg knew how many remaining septic tanks there were in the city.

Mr. Ballard said there were a few, but not a large number.

Ms. Fitz-Hugh asked about future plans for stormwater cleanup.

Mr. Rosenberg said that the City has a stormwater utility which has a number of components. He noted that the Environmental Protection Agency had recently audited the program.

Ms. Harper asked to clarify that the City of Norfolk believed their program should be found consistent, but that staff was saying otherwise.

Mr. Crafton clarified that the City would be in agreement with the first four recommendations by May 17 but that staff was most concerned with the remaining three recommendations.

MOTION: Ms. Fitz-Hugh moved that the Southern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that the City of Norfolk's revised Phase I program be found inconsistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations and further that the City undertake and complete the seven conditions outlined in the staff report no later than December 31, 2005.

SECOND: Ms. Roberts

DISCUSSION: None

VOTE: Ayes – Mr. Froggatt, Ms. Fitz-Hugh, Ms. Roberts, Mr. Rodriguez

Nays – Ms. Harper

Motion carried.

Ms. Harper asked if the corrected items would be removed before the recommendation goes to the entire board.

Mr. Link said the assumption was that only the Little Creek finding would move forward, unless it is adequately addressed by the City prior to the Board meeting.

City of Hampton

Mr. Belo presented the report for the City of Hampton. He recognized Keith Cannady, Chief Planner for the City and James Freas, City Planner.

Mr. Belo stated, that on September 22, 2004, Hampton's City Council adopted a new Special Public Interest - Chesapeake Bay Preservation District map that substantially expanded the City's Intensely Developed Areas (IDAs) from the roughly 60 small IDAs approved by the Board a decade ago.

The newly adopted map includes an almost continuous IDA that overlays the vast majority of the City's RPA. The City's IDA expansion eliminates the most significant portions of the Chesapeake Bay Preservation Area Designation and Management Regulations (Regulations) by removing all principal structure setback requirements and restrictions to the construction of accessory structures in the RPA. The IDA designation also eliminates all buffer maintenance and replacement requirements in the vast majority of the City's RPA buffers.

IDAs typically represent urban centers, heavily industrial areas, and other densely developed areas, which typically contribute a considerable amount of nonpoint source pollution directly into adjacent waterways due to extensive amounts of impervious surfaces. Research demonstrates that increases in stormwater runoff pollution are directly proportional to increases in impervious surfaces. The degree of pollution entering the Bay and the severely degraded nature of the Chesapeake Bay Preservation Area in older densely developed areas is the primary reason that the Regulations allow the designation of IDAs provided development and redevelopment within IDAs reduces existing stormwater runoff pollutant loadings by 10 percent.

Mr. Belo said that after reviewing the materials provided by the City the Staff recommended that City of Hampton's Phase I program amendments be found inconsistent with § 10.1-2109 of the Act and § 9 VAC10-20-60 1 and 2 of the Regulations. The Department is primarily concerned about the City's interpretation of the IDA designation criteria and the City's ability to ensure the 10% nonpoint source pollution reduction goal is achieved for all development and redevelopment in IDAs.

The IDA designation only applies to those areas included in the City's CBPA. Therefore, the Department limited its review to only those materials directly related to the land use characteristics found, at the time of original local program adoption, within the City's CBPA – the general boundaries of which are depicted in the map entitled “City of Hampton - Chesapeake Bay Preservation District” in the *Chesapeake Bay Preservation: 2010 Comprehensive Plan Amendment* (adopted by City Council May 22, 2002).

The Regulations (9 VAC 10-20-100) state that “at their option, local governments may designate Intensely Developed Areas as an **overlay** of Chesapeake Bay Preservation Areas within their jurisdictions.”

The Regulations define the Chesapeake Bay Preservation Area as consisting of the Resource Protection Area and a Resource Management Area.

Although the Regulations provide guidelines for the designation, Resource Management Areas vary drastically throughout Tidewater. The City of Hampton has a 100 foot RMA landward of the RPA boundary.

Unlike the RMA, the RPA definition is quite specific. According to the Regulations the *Resource Protection Areas* (RPA) are comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters. RPAs shall include:

1. Tidal wetlands;
2. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
3. Tidal shores;
4. Such other lands considered by the local government to meet the provisions of subsection A of this section and to be necessary to protect the quality of state waters; **AND**
5. A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subdivision 1 through 4 above, and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the Resource Protection Area notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with 9 VAC 10-20-110 et seq.

The Department notes that the definition does not associate the boundaries of the RPA with the boundaries of publicly or privately held parcels of land. Rather the RPA definition defines the limits of an extensive natural landscape feature, composed of several interconnected elements, that function as a whole to protect water quality.

The Regulations (9 VAC 10-20-100.B) require local governments wishing to designate IDAs to examine the pattern of residential, commercial, industrial, and institutional development within Chesapeake Bay Preservation Areas. Areas of existing development and infill sites within the Chesapeake Bay Preservation Area, where little of the natural environment remains, may be designated as IDAs provided that at the time of local program adoption the area had more than 50% impervious surface, was served by public sewer and water or a constructed stormwater drainage system, or had a housing density equal to or greater than four dwelling units per acre.

The Department believes that the over-riding test for designating IDAs is the identification of redevelopment areas with "little of the natural environment remaining." Since the Regulations do not describe how "little of the natural environment remaining" is to be determined, the Department reviewed the aerial photography provided by the City for large Resource Protection Areas that appear to be in a relatively natural state (i.e., the natural area appears to be substantially larger than impervious areas in the RPA). During this review, the Department noted large tidal wetland complexes, open fields, and forested upland RPA buffer areas throughout the City's newly designated IDA (including, but not limited to, areas in and adjacent to New Market Creek and its tributaries, the Southwest Branch of Back River and its tributaries, Harris River and its tributaries).

Department staff believes that substantial portions of Hampton's IDA designation cannot be legitimately classified, through a review of the aerial photography provided by the City, as including only those Chesapeake Bay Preservation Areas that have little of the natural environment remaining.

Recommendation:

1. The City of Hampton shall revise their IDA designation and map to include areas centered on high-density, intensely developed areas and to remove areas with large expanses of natural vegetation. Naturally vegetated areas are those Chesapeake Bay Preservation Areas that appear, from a review of aerial photography, to predominantly consist of large tidal wetlands, substantially wooded upland RPA buffer areas, and non-forested RPA buffers with modest amounts of impervious surface area.

In addition to concerns related to the identification of areas eligible for IDA designation, the Department is also concerned about the City's ability to achieve the 10 percent nonpoint source pollution reduction required in IDAs. If carefully managed, development and redevelopment within IDAs can help to improve water quality. As these areas redevelop, local governments have the opportunity to reduce stormwater pollutant loadings by requiring treatment of runoff through water quality Best Management Practices (BMPs), the establishment of on-site vegetation, and by limiting the amount of impervious surface on a site. To comply with the Act and Regulations, local governments should develop a water quality improvement strategy for development and redevelopment in IDAs. In order to be effective, the water quality strategy for IDAs should complement other community design and revitalization goals, reflecting the character of proposed redevelopment.

To date, the City has not provided adequate evidence that demonstrates that development and redevelopment in the newly designated IDA will achieve the required 10 percent reduction in nonpoint source pollution. Without this information the Department is unable to confirm that the City will be able to meet the pollution reduction goals and requirements for IDAs.

Recommendation:

2. The City will develop, and submit for the Department's review, a water quality improvement strategy that demonstrates that the City will achieve a 10 percent nonpoint source pollution reduction for all development and redevelopment in the City's IDA. The strategy will include accurate impervious surface calculations and accurate water-quality stormwater management calculations based on an analysis of the percent of impervious cover within the boundaries of the IDA at time of the City's initial program development.

Mr. Belo summarized by saying that, the Department recommends that the City of Hampton's Phase I program, as amended by the City Council on September 22, 2004, be found inconsistent with Chesapeake Bay Preservation Act and Regulations. This recommendation is based on the inclusion of significant RPAs that cannot be characterized as having "little of the natural environment remaining." In addition, the Department is not convinced that the City has provided adequate evidence that all development and redevelopment will achieve the 10 percent nonpoint source pollution reduction goal required in IDAs. The Department recommends a compliance deadline of September 30, 2005, which will allow Department staff to complete a compliance evaluation of the City's Bay Act program and time develop a progress report for the October 2005 Southern Area Review Committee explaining the City's success at adopting an IDA map that is consistent with the Bay Act and Regulations.

Mr. Belo said that the scale of the City's proposal concerns staff. The proposal is to establish IDAs overlaying the vast majority of the City.

Mr. Crafton noted that staff has had an extensive discussion with the City of Hampton. Conducting a compliance evaluation was discussed.

Mr. Belo introduced James Freas, Stewart Leeth and Keith Cannady, representing the City of Hampton.

He noted that the IDA overlay the City has adopted only applies to the 100-foot RPA buffer. It is the 100 ft. setback requirement that is of concern for the City.

Mr. Cannady said that the City has applied the IDA overlay just to the buffer portion of the RPA. He said the City is concerned about the environment created when there is a 100 foot buffer.

Mr. Crafton noted that the buffer issue is the same as the issue for Norfolk. The property lines go to the water's edge. In calculating the imperviousness, the entire parcel needs to be part of the calculation.

Mr. Feas presented a Power Point presentation on the City of Hampton CBPA Program Review. A full copy of the report is available from the Department of Conservation and Recreation.

IDA Designation

- Appropriate for Hampton's Development Pattern
- Part of a Comprehensive Water Quality Management Program

Development Pattern: Mature City

- Population & Employment: A Mix of Stable & Declining Areas
- Developable Land: Limited (9.6%)
- Building Permit Trends: Declining
- Housing: Aging & Declining in Value
- Fiscal Stress: Increasing

Chesapeake Bay Preservation

Amendment to the 2010 Comprehensive Plan (5/22/02)

- “No new Chesapeake Bay Preservation Policies regarding physical constraints to development are recommended with this plan amendment for the following reasons:
 - “The small amount of vacant land in the City that is suitable for new development.”
 - “Physical constraints to development are addressed by existing policies, regulations, and programs.”
 - “Water Quality Improvement is more appropriately addressed through redevelopment due to the extent of existing development in the City.”
- “...evaluate and modify the RPA and IDA overlay zone districts in order to comply with CBPA Regulation amendments effective March 1, 2002.”
- “Explore non-regulatory approaches for protection of the RPA buffer, including expanded public education efforts, the use of conservation easements, and the creation of greenways.”

C2K: Sound Land Use

- . . . *promote redevelopment and remove barriers to investment in underutilized urban, suburban, and rural communities . . .*
- . . . *limit impervious cover in undeveloped and moderately developed watersheds and reduce the impact of impervious cover in highly developed watersheds . . .*
- . . . *encourage the concentration of new residential development in areas supported by adequate water resources and infrastructure to minimize impacts on water quality . . .*

... promote coordination of transportation and land use planning to encourage compact, mixed use development patterns, (and) revitalization in existing communities.

Development Strategies

- Conserve & Maintain Existing Neighborhoods & Business Districts
- Promote Infill Development
- Encourage Higher Densities and Mixed Uses
- Promote Reinvestment & Revitalization
- Target Redevelopment

IDA Designation

- Zoning Conformity Promotes Conservation, Maintenance, Investment
- Protects Buffer Vegetation
- Protects Existing Uses & Property Investments
- Promotes Compatible Infill Development
- Promotes Redevelopment
Promotes Healthy Neighborhoods

Comprehensive WQ Program

- Chesapeake Bay Preservation
- VPDES MS4 Storm Water Permit
- Erosion & Sediment Control
- Sanitary Sewer Overflows (I&I)
- Wetlands Protection
- Public Education & Outreach
- Creation of Greenways
- Dedicated Funding Source
- Mandated & Enforceable
- Not Subject to Development Trends
- Comprehensive: Pollutants & Sources
- Watershed Approach/Watershed Specific
- Annual Reporting
- Evaluation & Adjustment

IDA Statistics

- IDA covers 1,573 acres out of 8,099 acres in the entire RPA.
- 5,274 lots intersected by the IDA.
- 5,636 non-conforming buildings in the IDA.
—*These include homes, sheds, garages, etc.*
- Of the 8,625 parcels intersected by the RPA, 5,150 (60%) are non-conforming because of existing buildings located within the 100' buffer.

Water Quality Requirements in the IDA District

- All development occurring within the IDA must meet the zoning requirements of Article X SPI-CBPD (17.3-60).
 - These performance criteria include provisions to minimize impervious surfaces, protect indigenous vegetation, meet storm water and erosion & sediment requirements, and prevent the alteration of wetlands.
 - Development in the IDA “shall retain and establish vegetation in the buffer area to the extent practicable.”
- The IDA is defined in the ordinance as occurring on the landward component of the RPA and can therefore, by definition, not include tidal wetlands.

Commercial, Industrial, and Multi-Family Projects in the CBPD must conform with the Site Plan Ordinance.

- Minimize impervious cover.
- Provide and maintain green areas covering at least 10% of the land area through a landscape plan. The establishment of landscaping is bonded. (Citywide Requirement)
- Trees 6” in diameter and greater must be saved when possible.
- Areas shown as undisturbed or as a buffer must be protected from disturbance.
- All parking areas with 30+ spaces must dedicate 7% of the interior to green space. There must be 1 tree per every 10 spaces.
- Green Areas must be on soils capable of supporting vegetation that allow natural percolation, vegetated with natural vegetation, turf, or mulch beds, and may not be used as material storage space.

All Subdivisions of Land in the CBPD must conform with the Subdivision Ordinance

- Existing trees must be saved where reasonable. Where trees are removed or are not already present in open space areas, 4 trees must be planted +1 for each additional 2000 sq. ft. over 8000 sq. ft. of open space.
- Same protections of buffer areas as in the Site Plan Regulations.

Hampton's Storm Water Management Program

- Dedicated funding source through storm water fees.
- Citywide, new development must exhibit no net increase in storm water run-off, redevelopment must exhibit a 10% decrease, both through the use of bmps.
- BMPs are tracked, inspected, and maintained on an annual basis.
- There is an active program for detecting and eliminating illicit connections.
- Street Sweeping occurs on 715 miles of street a month, collecting an average of 294 tons of debris each month.
- Storm drains and ditches are cleaned as needed, removing 2,438 tons of debris in 2004.

Clean Water Education Programs

- The City works closely with the HRPDC on educational programs targeting a variety of water quality affecting activities including:
 - Lawn Care*
 - Pet Waste*
 - Sediment Runoff Control & others*
- Environmental education outreach to schools.
- Volunteer Waterway Cleanups.
- Clean City Commission focuses on Litter Prevention and City Greening. Conducts tree planting.
- Bay friendly landscaping workshops.

IDA Designation

- Appropriate for Hampton's Development Pattern
- Part of a Comprehensive Water Quality Management Program

Ms. Fitz-Hugh asked if the City was designating the IDA in order to promote building in the area.

Mr. Cannady said the City is pretty much built out, and that they did not anticipate a lot of building.

Ms. Fitz-Hugh noted then that it appeared the City was encouraging homeowners to increase the size of their home to meet current needs for resale value.

Mr. Cannady said that the process was market driven.

Mr. Cannady said that the City needed to think about sending a strong signal to the property owners as well as potential investors.

Ms. Fitz-Hugh said that Hampton and Norfolk should both be commended for the work they are doing. However, she noted that the responsibility of the Board was to protect the small areas, including wetlands and that the same procedures must be followed.

Mr. Cannady said that the City was not asking to do something not permitted in the regulations. The City believes that it has applied the regulations correctly.

Mr. Link said that he did not believe the IDA designation would address the creation of non-conforming lots.

Mr. Maroon asked for clarifications from the City. He asked Mr. Cannady to clarify the basis for the broader designation. He noted that the City was designating areas not historically approved by the Board. He asked why the City felt it had the authority to adopt this in a broader geographical context and how the City expects to achieve the higher level of pollutant reduction required in IDAs

Mr. Cannady said the City believes that the program is consistent with the regulations.

MOTION: Mr. Froggatt moved that the Southern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that the City of Hampton's Phase I program amendments be found inconsistent with § 10.1-2109 of the Act and § VAC 10-20-60 1 and 2 of the Regulations and further that the City of Hampton be required to amend its Phase I program to address the two recommendations for consistency outlined in the staff report, no later than September 30, 2005.

SECOND: Ms. Harper

DISCUSSION: None

VOTE: Motion carried unanimously.

Town of Smithfield

Mr. Link presented the report for the Town of Smithfield. He recognized Bill Hopkins, Planning and Zoning Administrator for the Town.

On September 20, 2004, the Board found the Town of Smithfield's revised Phase I program consistent with the Act and Regulations subject to the condition that the Town meet the compliance date of March 31, 2005 for recommendation number eight, and the compliance date of December 31, 2005 for all other recommendations.

The Town has amended its ordinance to reflect recommendation #8 by including the designation of the Town Planning Commission as the appropriate reviewing body for formal exception requests. Staff is of the opinion that the Town has adequately addressed this recommendation.

The Town has notified the Department that they are working on the remaining recommendations and will have the required revisions complete by the established final compliance date.

Mr. Hopkins stated that the information Mr. Link provided was correct and that the Town was indeed working towards completing the remaining recommendations.

There was no action necessary.

Town of Ashland

Mr. Helmboldt presented the report for the Town of Ashland. He noted that no one from the Town was present at the meeting.

The Town of Ashland adopted revisions to their Bay Act ordinance on March 9, 2004. On September 20, 2004 the Chesapeake Bay Local Assistance Board found the Town's Ordinance consistent subject to the condition that the Town adequately address the four recommendations for consistency no later than June 30, 2005.

On December 21, 2004, the Ashland Town Council adopted amendments to their Chesapeake Bay Preservation Area Ordinance in accordance with the recommendations of the Board as well as making the one suggested change for clarification.

The Town of Ashland has adequately addressed all of the Recommendations in their revised Bay Act ordinance.

Mr. Helmboldt said that staff recommended the Town of Ashland's Chesapeake Bay Preservation Area Ordinance be found consistent and further, the Town be commended for addressing these recommendations well ahead of the deadline required of them by the Board.

MOTION: Ms. Fitz-Hugh moved that the Southern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that the Chesapeake Bay Preservation Area Ordinance amended by the Town of Ashland on December 21, 2004 be found consistent with § 10.1-2109 of the Act and §§ 9VAC 10-20-60 1 and 2 of the Regulations.

SECOND: Ms. Harper

DISCUSSION: None

VOTE: Motion carried unanimously.

City of Chesapeake

Mr. Link presented the report for the City of Chesapeake. He noted that Amy Ring had been present to represent the City but had to leave.

On December 11, 2000, the Board found the City of Chesapeake's revised Phase II program consistent with the Act and Regulations subject to the condition that the City meet the compliance date of March 31, 2003 for completion of the seven recommendations identified in the Resolution.

The City requested an extension to the deadline due to the fact that the City was in the process of revising their entire comprehensive plan, and intended to include the incorporation of the Board's recommendations into this process. The extension request was approved by the Board on June 16, 2003, and established a new compliance date of December 31, 2004.

The City has notified the Department that the revised comprehensive plan, including all recommendations was adopted on March 8, 2005. However, the Department has not received a final copy of the revised plan. The delay was due to the completion of several revisions to the plan, as requested by City Council upon adoption. Mr. Link informed the Committee that Ms. Ring had provided the Department with a final copy of the City's Plan prior to the meeting. The revised Plan will be reviewed and presented and presented for approval during the September Board meeting.

Department staff did review the draft revisions provided by the City and these did adequately address all seven recommendations.

There was no action necessary.

City of Portsmouth

Mr. Link presented the report for the City of Portsmouth. He recognized Stacy Porter with the City.

Department staff met with the City of Portsmouth's environmental planner, stormwater engineer and other staff on October 15, 2004. At this meeting, City staff provided all of the requested materials from the local checklist, and discussed the City's local Bay Act program, thoroughly answering all of the questions from the Department's *Checklist for Local Program Compliance Evaluation*.

A second meeting was held on November 15, 2004 at the City offices to allow Department staff to discuss the City's site plan review process and implementation policies. Seven of the site plans reviewed on November 15, 2004 were selected for site visits. These site visits were conducted on December 6, 2004.

Several minor issues were identified during the field visits, however, these issues were quickly addressed by City staff following the site visit, with documentation of such action being provided to the Department

The City Planning Commission has an excellent track record of enforcing the City's ordinance and prohibiting restricted uses and encroachments into the buffer such as developments that increase impervious cover, vegetative clearing and the development of accessory structures. The City Planning Commission approved one exception in 2004. This exception request was for a gazebo that was constructed of pervious materials, with a mulched pathway leading to the structure.

Mr. Link said that based on the conversations, site plan reviews and field visits it is clear that the City of Portsmouth staff understands the intent of the Bay Act and Regulations and they know their own program very well. The City appears to have all of the necessary tools in place for compliance with the implementation requirements of the Regulations and has a well planned and established process for the review of proposed development within the City's CBPA.

Mr. Link noted that the City's ordinances appear to be in compliance and the staff is well trained and dedicated with a wealth of experience and local knowledge and further, that the Town staff is to be commended for implementing an effective Bay Act program.

Mr. Link said that staff recommended that the City's implementation of its Phase I program be found compliant with the Act and Regulations.

MOTION: Ms. Fitz-Hugh moved that the Southern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that the City of Portsmouth's Phase I program be found fully compliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

SECOND: Ms. Roberts

DISCUSSION: None

VOTE: Motion carried unanimously.

Mr. Crafton noted that the compliance evaluation for the City of Portsmouth was the first staff has evaluated that has been 100% compliant and that the City should be commended for their efforts.

York County

Mr. Belo presented the report for York County.

On March 22, 2004, the Board found that certain aspects of York County's Chesapeake Bay Preservation Act program do not fully comply with the Chesapeake Bay Preservation Act Regulations. The Board required York County to undertake and complete three recommendations included in the Department's staff report no later than March 31, 2005. The County has addressed two of the Board's three recommendations and is requesting a six-month extension to complete the final recommendation. Mr. Belo noted that he would address recommendation number one at the end of his remarks.

Recommendation number two required the County to document submission of a WQIA for any proposed land disturbance, development or redevelopment within RPAs, and for development in RMAs when required by the Zoning Administrator.

To address this recommendation, York County has implemented a weekly plan review meeting to discuss all submitted projects to, in part, ensure that CBPA performance standards are met and Water Quality Impact Assessments are submitted if required. County staff has developed standard WQIA's for shoreline work, buffer modifications, redevelopment, non-complying use and development waivers and buffer encroachments. Mr. Belo said that it was the Department's opinion that York County has adequately addressed Recommendation number two.

The third recommendation required the County to develop a program to ensure the regular or periodic maintenance of best management practices in order to ensure their continued proper functioning over the long-term.

To address this recommendation, York County requires all BMP Maintenance Agreements to be recorded in the Circuit Court. The Maintenance Agreement allows York County staff to re-inspect BMPs to ensure proper functioning and maintenance. County staff has reviewed and updated related databases and files and has started notifying property owners by letter of re-inspection requirements. Mr. Belo noted that it was the Department's opinion that York County has adequately addressed Recommendation number three.

Recommendation number one required the County to amend its subdivision ordinance to ensure consistency with the most recent changes in the Chesapeake Bay Preservation Area Regulations and Sec. 24.1-372 of the County's zoning ordinance.

The County staff is in the process of creating a stand-alone Bay Act ordinance by removing the EMA Overlay District from the County's zoning ordinance. The only substantial change to the County's Bay Act program will be that the York County Chesapeake Bay Board, comprised of the members of the York County Wetlands Board, will replace the York County Board of Zoning Appeals in reviewing and approving exceptions that can not be handled administratively.

For obvious reasons of efficiency, the County has chosen to defer making revisions to the subdivision ordinance until the York County Board of Supervisors and the Board act on the creation of the stand-alone ordinance. The County is requesting a six-month extension to provide enough time for Department review, York County Board of Supervisors approval, Board approval and then subdivision ordinance revisions as required by Recommendation number one.

The Department believes that York County has made significant progress addressing the Board's recommendations for improving those aspects of its Phase I program that were found not to fully comply with the Chesapeake Bay Preservation Act and Regulations. Mr. Belo said that the Department recommended that the County's request for an extension to September 30, 2005 is reasonable and appropriate.

Mr. Crafton asked if the County was comfortable with the date. Mr. Belo said they were.

MOTION: Ms. Roberts moved that that the Southern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that the implementation of certain aspects of York County's Phase I program do not fully comply with §§10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and that the County be directed to undertake and complete the recommendation contained in the staff report no later than September 30, 2005.

SECOND: Ms. Harper

DISCUSSION: None

VOTE: Motion carried unanimously.

City of Hopewell

Mr. Helmboldt gave the report for the City of Hopewell. He recognized March Altman, Director of Development for the City.

The City's Phase I ordinance was first adopted by the City Council on September 6, 1990. The City adopted revisions to its Phase I program on December 9, 2003 to ensure compliance with the revised Regulations. The Board found the City's revised Phase I ordinance consistent with conditions on June 21, 2004 and established a deadline of September 30, 2005 for the City to undertake and complete the one recommendation for consistency.

Department staff's initial compliance evaluation meeting with the City of Hopewell took place on November 17, 2004. Scheduling of the second meeting was delayed as a result of the holiday schedules and Department staff finally arranged a second meeting on March 23, 2005 to review site plans and conduct site visits.

At the time of site plan review by Department staff, the Hopewell City staff informed Department staff that two areas within the City, the Crossings and Anchor Point, had been designated as exempt from the Bay Act requirements by the Hopewell City Council when their local program was initially adopted in 1990. Department staff is unaware of any exemptions granted to these two areas, and find that such an exemption is inconsistent with the requirements of the Regulations, even prior to the most recent revisions.

The exemption for Anchor Point is of significant concern since this is a waterfront property and has had extensive development with condominiums and a marina.

City staff stated that the intent of the exemption was to allow for development in an area that would have otherwise been unbuildable. However, relief mechanisms in the Regulations are intended to address such situations. Due to the exemption, development at the marina is being completed and there apparently has been no oversight on the part of the City to ensure water quality protection through a WQIA, or to review alternatives to placement of facilities, including a parking lot, within the RPA as required under the Regulations.

Mr. Helmboldt presented the following staff recommendations:

Recommendation:

For consistency with §§ 9 VAC 10-20-80 and 9 VAC 10-20-130 of the Regulations, the City must ensure that their Bay Act program requirements are applied uniformly throughout the City. Exemptions to the requirements for designation of CBPAs are not allowed under the Regulations, and their exemptions do not appear to have been submitted for review by the Chesapeake Bay Local Assistance Board.

The City encourages all applicants to request a pre-application review conference, during which basic plan and development requirements are discussed, including provisions of the City's zoning ordinance and Bay Act requirements. Two different copies of the City's Preliminary Site Plan Application were provided to the Department. The version initially provided to staff during the first meeting does not contain any requirement for including CBPA information.

The second version does require the delineation of any CBPAs, but also states that waterways and environmental features on adjacent properties only need to be depicted approximately. It is unclear if staff is consistently using the revised copy or when the revision was made. Given that the precise delineation and depiction of any CBPAs is based upon the location of RPA and RMA features, even when located on adjacent property since the RPA is not confined by property lines, the City needs to revise their plan submittal and review process to ensure that these features are accounted for.

Recommendation:

For consistency with § 9 VAC 10-20-105 of the Regulations, the City must ensure that onsite RPAs are properly delineated through their plan submittal and review process, by revising their submittal forms, and checklists to require complete and accurate delineation and designation of all RPA and RMA features on submitted site plans, including any CBPA features that are present on adjacent properties. To ensure this happens, the City must revise their Site Plan Requirements in Article XVI (16) of the City Code to include this requirement.

Beyond plan review and approval, the City does not have any mechanism to ensure that appropriate measures, such as E&S control measures or delineation of the clearing and grading

limits, or RPA are in place prior to land disturbance. The City requires that clearing and grading limits be shown on the plans and to also be flagged or staked on-site. However, the City does not require the RPA to be marked onsite.

Recommendation:

To ensure that the Resource Protection Area remains undisturbed during construction as required under and for consistency with § 9 VAC 10-20-130 3 of the Regulations, the City must require the installation of safety or silt fencing or other visible barriers along the boundary of the RPA as deemed appropriate by City staff on parcels with RPA present.

DCR's Division of Soil and Water Conservation conducted a review of Hopewell's Erosion and Sediment Control program in October 2002. DCR found the City inconsistent with the minimum standards of effectiveness under state law. DCR required that the City submit a Corrective Action Agreement within thirty (30) days of the initial review. To this date the City has failed to submit anything to address the inconsistent evaluation.

The Division of Soil and Water Conservation noted that the required corrective actions would not be difficult to achieve. Most issues had to do with ensuring adequate review and oversight of project elements, adequate site inspections and documentation of inspection records, and enforcement of regulations relative to violations.

Recommendation:

For consistency with § 9 VAC 10-20-120 6 of the Regulations, the City must address the erosion and sediment control program deficiencies noted by DCR-DSWC staff through submittal of a Corrective Action Agreement.

The City's Office of Business Management works in coordination with the City's Health Department to monitor the approximately 75 septic systems that are still present within the City of Hopewell. City staff indicated that they have not been sending out notifications of pump-out requirements. However, once a system fails, the City will not permit repair, and requires that the owner tie in to the municipal sewer system.

Recommendation:

For consistency with § 9 VAC 10-20-120 7 a of the Regulations, the City must implement a five-year pump-out notification for any remaining septic systems that exist within the City's CBPAs.

The City does not have an approved stormwater management plan which would allow for placement of BMPs in the RPA. The City appears to have allowed the placement of a BMP for the Hopewell Nursing Home in the RPA but there was no record of any exception request, formal or administrative, in the site plan file reviewed by Department staff.

Recommendation:

For consistency with § 9VAC 10-20-130 1 e of the Regulations, the City must cease permitting the placement of BMPs in the RPA through an administrative process, and must only allow them after being granted an exception following review and approval through the formal exception process.

The City has received one encroachment request, which was granted for the Hopewell Nursing Home project that is currently under construction. The City did not provide any documentation of how the request was processed or granted, nor was a WQIA provided for Department staff review, addressing the impacts that would result from the encroachment.

Recommendation:

For consistency with §§ 9 VAC 10-20-150 and 9 VAC 10-20-130 4 of the Regulations, the City must provide documentation of any administrative waiver or exception request.

Department staff reviewed five site plans at the second meeting. Due to the small geographic size of Hopewell and the limited development occurring within the City, there were few plans that impacted Chesapeake Bay Preservation Areas. Staff briefly reviewed additional plans to determine if any were relevant to the City's Bay Act program.

Three of the site plans reviewed were then chosen for field site visits; one new subdivision and two commercial developments. Additionally, staff visited the site of a citizen complaint regarding a buffer violation.

Hopewell City Planner, Margaret Innocent, and City Engineer, Mark Petersohn accompanied Kelly Ramsey and Mr. Helmboldt on the site visits.

Staff visited the site of the Hopewell Nursing Home, a one-story facility that is a redevelopment project of a 4.91-acre site. The site is currently under construction and is increasing in impervious area by 15%.

The site plans indicated that RPA was present onsite, however there were two buffer notations and an additional setback notation. The RPA was delineated at only fifty feet with an additional "50' buffer" noted on the site plans but without any explanation for why there were separate designations. Additionally, there were notations for both fifty and one hundred-foot setbacks, as well as a request for relief from the 100' RMA setback. The facility does encroach into the RPA, and it is assumed by staff that this was the relief sought, and that the RMA was confused with the RPA. Staff also noted that the developer had incorrectly measured the RPA from the mean low water line of the rivers, both of which are tidal.

The RPA delineation protocol requires that the RPA along tidal shores be measured from the mean high water. The site plans also contained a notation stating that a WQIA was required "when the seaward fifty feet (of the RPA) is disturbed." The site plan file for this development did not contain a WQIA or state whether one was submitted, however City staff stated that they thought that a WQIA had been prepared and submitted for this project.

Recommendation:

For consistency with § 9 VAC 10-20-130 6 of the Regulations, the City shall ensure that a WQIA is submitted and reviewed for all land disturbances in the RPA, including shoreline erosion control projects, approved administrative waivers and exceptions and all other permitted uses and development.

The Hopewell Nursing Home construction plans did not include standard notes and details that are required, and did not completely comply with standard engineering practices and specifications of the *Virginia Stormwater Management Handbook*. Department staff also noted that the water quality calculations of the Nursing Home did not appear to meet the water quality requirements.

In order to obtain a 35% pollutant removal efficiency, the detention facility needed to comply with the minimum design standards and specifications of the *Virginia Stormwater Management Handbook*. The BMP should have been sized to the entire area draining to it, including offsite areas, not just the on-site area.

Although there were minimal maintenance notes included in the construction plans, a BMP maintenance agreement was not found in the files of the Hopewell Nursing Home. Mark Petersohn stated that the plat and plan for subdivisions must have recordation of BMP maintenance as a deed requirement. Mr. Helmboldt said that Department staff was unsure if this is required of commercial development as well and if the notes in the plans constitute a maintenance agreement as required under § 9 VAC 10-20-110 B of the Regulations.

Recommendation:

For consistency with § 9VAC 10-20-120 8, and therefore § 4VAC 3-20-71, stormwater management facilities must be located, designed and maintained to perform at the target pollutant removal efficiency specified in § 4VAC 3-20-71, Table 1.

For consistency with § 9VAC 10-20-120 8, the City must consistently implement the stormwater runoff criteria of the City's CBPA Overlay District ordinance (Article XV-A.K.1, Article XV-A.K.2.h) and require a stormwater plan to be submitted (Article XV-A.M.4) that provides the engineering calculations and details the appropriate stormwater quality mitigation.

Department staff visited the Cobblestone subdivision to review the Phase 2 construction. City staff noted that the RPA on the development property was recorded as an easement, however when reviewing site plans, Department staff noted that the easement was recorded as an RMA easement.

Comparing the site plan map to the City's CBPA mapping confirmed that RPA does appear to exist onsite. However, no RPA is depicted on the site plans and the City's notes do not document any RPA. Furthermore, the City's staff report states that there are "no environmental constraints to developing" the property. Also of note is the existence of a stormwater basin located onsite that is close to or actually within the RPA.

Because the limits of the RPA were not depicted or marked onsite, staff was unable to determine if the BMP was located outside of the RPA as required by the Regulations. Additionally, since the RPA has not been recorded or noted, staff was unsure if individual parcels will be recorded with RPA on them and what, if any, measures would be taken to ensure that future encroachment by homeowners does not occur.

Mr. Helmboldt said that these issues reiterate the need outlined in Recommendation number five which calls for the proper documentation of any RPA encroachment and the need for a WQIA if and when encroachment occurs.

Mr. Helmboldt said that as noted in the first recommendation, the City needs to require all site plans to depict RPA limits prior to the commencement of any development activities. Though the City is experiencing little in the way of development activity, it is imperative that they update their program administration and enforcement to comply with the current requirements of both the state Regulations and their own City codes.

Mr. Helmboldt said that staff recommended that the Board find that certain aspects of the City's implementation of its Phase I program do not fully comply §§10.1-2109 and 2111 of the Act and §§9 VAC 10-20-231 and 250 of the Regulations and further that the City of Hopewell undertake and complete the ten (10) recommendations contained in this staff report no later than June 30, 2006.

Mr. Altman thanked staff and said that this served as a helpful audit of the City's program.

MOTION: Ms. Roberts moved that the Southern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that certain aspects of the City of Hopewell's implementation of its Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and that the City be required to undertake and complete the ten recommendations contained in the staff report as well as implementing a BMP maintenance agreement no later than June 20, 2006.

SECOND: Mr. Froggatt

DISCUSSION: None

VOTE: Motion carried unanimously.

Henrico County

Mr. Helmboldt gave the interim report for Henrico County.

Henrico County staff has stated that they are in the process of making all three required changes to comply with the recommendations and have indicated that they do not foresee any impediments or problems that would prevent them from adopting those changes by the September 30, 2005 deadline.

No action was required.

Other Business

There was no other business brought before the committee.

Public Comment

There was no public comment.

Adjourn

There being no further business, the meeting was adjourned.

Respectfully submitted,

C. Scott Crafton
Division Director
Chair in Absence of Mr. Davis

Joseph H. Maroon
Director